

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

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JUBILANT CADISTA PHARMACEUTICALS, INC., :

Plaintiff, : 1:12-cv-02089-GLR

-against- :

RAM POTTI and EPIC PHARMA LLC, :

Defendants. :

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MOTION TO WITHDRAW AS COUNSEL FOR DEFENDANTS

Pursuant to L.R. 101(2)(a) and 101(2)(b), the law firms of Satterlee Stephens Burke & Burke LLP and Beveridge & Diamond PC (together “Defense Counsel”), counsel for defendants Epic Pharma, LLC (“Epic”) and Ram Potti (“Potti”) (together, “Defendants”), hereby move this Court for an Order permitting their withdrawal as defense counsel in this case on the following grounds:

1. Defense Counsel was engaged in August, 2012 in order to represent Defendants’ interests in this matter. Defense Counsel have written engagement agreements with Defendants requiring, inter alia, payment of fees for services rendered, cooperation with counsel, and the provision of information to counsel.

2. Pursuant to L.R. 101(2)(a) and 101(2)(b), attached hereto as Exhibit A is a certification by Defense Counsel concerning the required notifications to Potti and Epic addressing Defense Counsel’s intent to withdraw.

3. Defense Counsel’s withdrawal is occasioned by lack of payment of fees owed, concerns about payment of fees going forward, lack of client direction and communication, and other professional concerns that Defense Counsel has resulting therefrom.

4. “Courts routinely permit attorney withdrawal where clients fail to pay fees in accordance with the terms of engagement.” Abbott v. Gordon, No. 09 Civ. 0372 (DKC), 2010 WL 4183334, at *2 (D. Md. 2010) (collecting cases).

5. “Where a client’s failure to pay fees is accompanied by other manifestations of deterioration in the attorney-client relationship, the justification for withdrawal increases.” Id. at *3 (citing R. Maganlal & Co. v. M.G. Chem. Co., No. 88 CIV. 4896 [MJL/THK], 1996 WL 420234, at *3 (S.D.N.Y. July 25, 1996) (withdrawal permitted where, in addition to client’s failure to pay \$28,000 in fees and disbursements, counsel asserted that the client was no longer cooperative and failed to return phone calls or provide necessary documentation)).

6. Due to client confidentiality concerns, Defense Counsel is constrained from describing these non-payment and communication issues more fully, but would be prepared to make an *ex-parte* submission *in-camera* if requested by the Court.

7. Defendants previously indicated that they would have new counsel by April 12, 2013. Upon information and belief, Defense Counsel understands that Defendants have engaged new counsel and that new counsel will be appearing on Defendants’ behalfs.

8. We also request a brief stay of this action for new counsel to enter an appearance on behalf of Defendants.

9. Under the current Court-ordered schedule, the case is in the discovery phase. Summary judgment motions are not due to be filed until August 16, 2013. Thus, Defendants will not be prejudiced by Defense Counsel’s withdrawal at this juncture in the case, and the motion should be granted. See, e.g., Portsmouth Redevelopment v. BMI Apts. Assoc., 851 F. Supp. 775, 783 (E.D. Va. 1994) (granting motion to withdraw where clients failed to pay substantial legal fees and trial was not imminent).

WHEREFORE, Defense Counsel respectfully requests that this Court enter an order permitting them to withdraw as attorneys of record for Defendants in this case.

Dated: April 22, 2013

BEVERIDGE & DIAMOND, P.C.

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Attorneys for Defendants

EXHIBIT A

CERTIFICATION OF COUNSEL

AARON M. ZEISLER, declares under penalty of perjury:

1. I am a partner with the firm of Satterlee Stephens Burke & Burke LLP, counsel for defendants Epic Pharma, LLC (“Epic”) and Ram Potti (“Potti”) (together, “Defendants”).

2. Pursuant to L.R. 101(2)(a), on April 10, 2013, the law firms of Satterlee Stephens Burke & Burke LLP and Beveridge & Diamond PC (together “Defense Counsel”) served a formal notice upon Defendant Potti, via email and U.S. Mail, advising Mr. Potti of Defense Counsel’s proposed withdrawal and notifying the client either to have new counsel enter an appearance or to advise the Clerk that the client will be proceeding without counsel.

3. Mr. Potti’s name and last known address, to which the notice was sent, is as follows: Ram Potti, 184 Cranberry Court, Melville, New York 11747.

4. Pursuant to L.R. 101(2)(b), on April 10, 2013, Defense Counsel served a formal notice upon Defendant Epic, via email and U.S. Mail, advising Epic of Defense Counsel’s proposed withdrawal and notifying it that it must have new counsel enter an appearance or be subject to the dismissal of its claims and/or default judgment on claims against it. The notice further advised that, in the event that within thirty (30) days of the filing of the motion to withdraw, new counsel has not entered an appearance, the Court may take such action, if any, that it deems appropriate, including directing Epic to show cause why a default should not be entered on claims asserted against it.

5. Epic’s name and last known address, to which the notice was sent, is as follows: Epic Pharma, LLC, 227-15 N. Conduit Avenue, Laurelton, NY 11413.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: New York, New York
April 22, 2013

/s/ Aaron M. Zeisler
Aaron M. Zeisler

CERTIFICATE OF SERVICE

I hereby certify that the foregoing motion was served via email and U.S. Mail, postage prepaid, on this 22nd day of April, 2013 on the following:

Robert Fletcher, Esq.
Leslie Paul Machado, Esq.
LeClairRyan, P.C.
1101 Connecticut Ave., N.W., Suite 600
Washington, DC 20036

/s/ Aaron M. Zeisler
Aaron M. Zeisler